

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 12 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

BHADRESH JASUBHAI SHAH

Versus

STATE BANK OF SAURASHTRA

Appearance:

MR YF MEHTA for Petitioners
MR AS VAKIL for Respondent No. 1
NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 16/03/2000

C.A.V. ORDER

1. Having heard the learned counsel for the
parties and going through the order of both the
Courts below, I am satisfied that it is wholly a

frivolous and baseless revision application. Though both the Courts have concurrently decided that it is not a fit case for grant of interim relief in favour of the petitioners and further discussion is not necessary, but few facts are to be stated in this order.

2. Relation of the petitioner No.1 and respondent No.2 is that of son and father respectively. The respondent No.2 has taken loan from the respondent No.1. The loan amount was not paid. The Suit has been filed by the Bank respondent No.1 for recovery of that amount, which was ultimately transferred to Debts Tribunal and decree has been passed and by now the decretal amount would have been more than Rs. 80 lacs. The petitioner No.1 and respondent No.2 are residing at one place which is clearly borne out from their addresses given in the Trial Court proceedings as well as in this revision application. The respondent No.2 is trying to evade the execution of this decree of the Bank by adopting all sorts of tactics through his son. This plea of tenancy, rightly prima-facie has been held to be a concocted one. The petitioner has filed Special Civil Application before this Court also to restrain the Bank from auctioning the property in execution of the decree. Then he filed the Suit against the respondent No.2 and therein injunction has been got by him and now he filed the Suit against the Bank. These all facts go to show that the father and son do not want to pay the due amount of the Bank. The Suit has been filed in the year 1998 and now it is 2000 but the amount has not been paid. These sort of tactics which have been adopted are with oblique motives. Both the Courts below are perfectly correct and justified in their approach that it is not a fit case where any relief has to be granted to the petitioner. Prima-facie tenancy plea has not been accepted and the jurisdiction of the Court to entertain the suit has also not been accepted. Leaving apart these two points otherwise also, if we go on the merits of the matter it is certainly a case where an attempt has been made to delay the recovery of the Bank amount.

3. In the result, this revision application fails and the same is dismissed. Notice discharged. Interim relief, if any, granted by

this Court stands vacated. The petitioners are directed to pay Rs. 5,000/- as costs of this Revision Application to the Bank.

Dt.16.03.2000. [S.K.KESHOTE,J.]